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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,653	02/10/2004	Steve Navarro	NAV-001	1451

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LAW OFFICE OF TIMOTHY M. BARLOW
P.O. BOX 64775
TUCSON, AZ 85728-4775

EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/775,653

Applicant(s)

NAVARRO, STEVE

Examiner

Lan Nguyen

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 15-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of invention I, claims 1-14, in the reply filed on 8/25/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Oath/Declaration

2. Please note that the title of the invention listed in the Oath is different than the title in the disclosure.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "76 and 80". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 7 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "may be" renders claims 7 and 14 indefinite.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 4, 7, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Pyle.

Re: claim 1, Pyle shows self-contained trailer braking system, as in the present invention, comprising: a fifth wheel hitch attached to a trailer frame, where the trailer hitch further comprises a kingpin 11 to engage a fifth wheel of a towing vehicle, as shown in figure 2; a sliding mechanism 16 attached to the kingpin 11, where the sliding

mechanism 16 is slidably captured within the trailer frame and can move between a forward position and a rear position, as shown in figure 2, a spring 43 attached to the sliding mechanism and the trailer frame, where the spring biases the sliding member to the forward position, a brake actuator 41 mounted to the trailer frame and linked to the sliding mechanism; a brake assembly attached to the brake actuator, not illustrated but inherent; and a power supply 36 attached to the brake assembly, where power is applied to the brake assembly when the sliding mechanism is away from the forward position.

Re: claim 4, Pyle shows spring 43 to be a coil spring.

Re: claim 7, Pyle further shows the lock mechanism 56.

Re: claim 10, Pyle shows hydraulic master cylinder 36.

Re: claim 11, Pyle shows shock absorber 26.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 3, 5, 6, 8, 9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pyle and Applicant's admitted prior art, page 4 of the specification.

Re: claims 2, 8 and 9, Pyle shows the energy to be hydraulic while the instant invention claims an internal combustion engine (note that internal combustion engines

are normally present in construction vehicles and would have been available as a power supply to the brake system), a pneumatic energy and an electrical energy. Page 4 of the instant application admits that brake systems are normally operated with pneumatic, electric or hydraulic energy. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed one of the pneumatic, electric or hydraulic energy to operate the brake system; since all of these energies are considered old and well known and are readily available for use with a trailer brake system.

Re: claims 3, 5 and 6, the Examiner takes an Official Notice that torsion bar, pneumatic spring and leaf spring are equivalences of coil spring and would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed one of these springs as a biasing means since they are considered to be equivalences and any of these type of spring would have accomplished the same biasing task.

Re: claim 12, Pyle shows self-contained trailer braking system, as in the present invention, comprising: a fifth wheel hitch attached to a trailer frame, where the trailer hitch further comprises a kingpin 11 to engage a fifth wheel of a towing vehicle, as shown in figure 2; a sliding mechanism 16 attached to the kingpin 11, where the sliding mechanism 16 is slidingly captured within the trailer frame and can move between a forward position and a rear position, as shown in figure 2, a coil spring 43 attached to the sliding mechanism and the trailer frame, where the spring biases the sliding member to the forward position, a brake actuator 41 mounted to the trailer frame and linked to

the sliding mechanism; a brake assembly attached to the brake actuator, not illustrated but inherent; and a power generator 36 attached to the brake assembly, where hydraulic energy is applied to the brake assembly when the sliding mechanism is away from the forward position. Pyle shows the energy to be hydraulic while the instant invention claims a pneumatic energy. Page 4 of the instant application admits that

brake systems are normally operated with pneumatic, electric or hydraulic energy. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed one of the pneumatic, electric or hydraulic energy to operate the brake system; since all of these energies are considered old and well known and are readily available for use with a trailer brake system.

Re: claims 13 and 14, Pyle shows shock absorber 26 and lock mechanism 56.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goettler and Hodge show various other brake systems for trailers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 703-308-0830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lan Nguyen
Patent Examiner
Art Unit 3683

Lan Nguyen
11/26/04